

CHILD RIGHT TO EDUCATION OF INTERNALLY DISPLACED CHILDREN IN NORTH-EAST NIGERIA: THE ROLE OF GOVERNMENT AND INTERNATIONAL BODIES

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ABSTRACT

The right of a child to education is recognized under Nigerian laws and international instruments. The Boko Haram conflict that ravaged the Northern part of Nigeria has displaced more than two million people in North Eastern part of Nigeria. Children constitute great percentage of this population. Thousands of children stay in IDP camps across the states of the North Eastern part of the county especially Borno state which is the epicenter of the boko haram conflict. As a result of the conflict and displacement, many children have been denied the right to education as reflected under the Nigerian Constitution. The Nigerian government comprising of the Federal, State and Local Governments have a role to play towards the protection of this important right of children. At the International arena, UNICEF and other International Bodies have a role to play in protecting the right of the child to education. This paper intends to examine the right of IDP children to education and the role to be played by the government and the International bodies in protecting this right of children.

Key Words: Children, IDPs, Education, Nigeria

1. Introduction

Nigeria is the most populous black nation in the world. It has experienced several cases of conflicts that has resulted in the displacement of millions of people. The Boko Haram conflict is one of the conflicts that has resulted in the death of thousands and the displacement of millions of people. The conflict started in Maiduguri, the Borno state capital. Within a short

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while it spread most parts of northern Nigeria. The loss of lives and destruction of properties as a result of the conflict is overwhelming.

As a result of the displacement of millions of people, thousands of children stayed in IDP camps across Borno State. The Borno state government provided shelter and feeding to the people staying in the camps. The Federal Government of Nigeria and several other international bodies provide assistance to the people staying in the camps and even those staying outside the camps. Naturally, the right to education is bound to suffer as a result of the displacement. The state and federal governments in Nigeria have been doing their best towards addressing the issue of the right to education of children of internally displaced persons in North East Nigeria. Several international organizations such as UNICEF and Red Cross have also been doing their best in addressing the issue of right to education of children of IDPs in North Eastern Nigeria. This paper therefore intends to examine the right to education of children of IDPs in North Eastern Nigeria. History of conflicts in Nigeria, insurgency in North Eastern Nigeria, the right of children to education and the effect of the insurgency on the right of children to education. The role of the government and international bodies will equally be examined and suggestions on ways to improve the right of children to education will be provided.

2. History of Conflicts in Nigeria

Nigeria is the most populous black Country in the world with an expected population of over 160 Million people.² Before the advent of colonial rule, Nigerian lived as independent entities. The North part of the country were predominantly Muslims with Hausa, Fulani and Kanuri constituting the majority ethnic group.³ The southern part of the Country practiced traditional African religion and was dominated by the Yoruba, Igbo and Ijaw tribes.⁴ The coming of Europeans saw the introduction of Christianity to most part of Nigeria especially Southern Nigeria.⁵ Northern and Southern Protectorates were amalgamated by Britain in 1914.⁶ Gradually, Britain introduced its laws and brought validity clauses to restrict the application of

² Oduwale, TA, "Youth Unemployment and Poverty in Nigeria", (2015) Vol. 1, No. 2, *International Journal of Sociology and Anthropology*, 23.

³ Available at www.tandfonline.com/doi/full/10.1080/13557858.2014.890599?src=recsys visited 31/12/2016

⁴ Ibid

⁵ Galadima, BY, Christianity in Nigeria, available at https://biblicalstudies.org.uk/pdf/ajet/20-1_085

⁶ Muhammad U., International Political Economy of Nigerian Amalgamation Since 1914, *eujournal.org/index.php/esj/article/download/1937/1879* visited 31/12/2016

Islamic and customary laws in Nigeria. Before any principle of Islamic or customary law becomes applicable, it must not be repugnant to natural justice equity and good conscience.⁷ The courts in Nigeria have on several occasions declared some customs repugnant to natural justice, equity and good conscience hence void and inapplicable.⁸

Nigeria gain its independence from Britain on 1st October 1960.⁹ While Penal code applied in the Northern part of the country, Criminal Code was applied in the southern part of Nigeria.¹⁰ Nigeria had experienced both civilian and military leadership in its political history but has since 29th May 1999 enjoyed an uninterrupted civilian leadership.¹¹

Violence and conflicts were experienced in Nigeria even before independence. Historically, Nigeria had witnessed series of violence prior to her political independence in 1960. Most of the uprising was against the colonial administration on issues related to tax, welfare etc.

This violence happened as a result of the introduction of various policies of the British administration, like taxation. Notable examples of such violence or uprising were the 1916 Iseyin-Okeho uprising in the West.¹² This was followed by the 1929 Aba women riot in the East.¹³ The first major ethnic violent that occurred in the post-colonial period took place in the Western Region and was between Chief Obafemi Awolowo and Chief Ladoke Akintola in 1962. The rift between them led to a series of crises and clashes which invariably led to the declaration of a State of Emergency.¹⁴ A bloody coup d'état of January 15, 1966 led by Kaduna Nzeogwu, an Igbo resulted in the death of senior northern elites like sir Ahmadu Bello the Sardauna of Sokoto and Tafawa Balewa the Nigerian Prime Minister, this resulted in violent reaction from Northerners.¹⁵ This and other factors resulted in a bloody civil war that lasted for 30 Months and resulted in the death of millions of Nigerians.¹⁶

⁷ Alkali, AU, et al, *Nature and Sources of Nigerian Legal System: An Exorcism of a Wrong Notion*, (2014) International Journal of Business, Economics and Law, Vol. 5, Issue 4 P5

⁸ Ibid

⁹ Nigeria Independence Act 1960

¹⁰ See Nigeria Penal Code Act 1960 and Criminal Code Act

¹¹ Olushegun Obasanjo, Umar Musa Yar'adua and Goodluck Jonathan were the respective Presidents that ruled from 29th May 1999-29th May 2015. Muhammadu Buhari took over the mantle of leadership as Nigeria's president on 29th May, 2015 and is expected to rule up to 29th May 2019.

¹² Momoh, A., *Popular Struggles in Nigeria*, (1996) Afr J. Pel. Vol. 1 No. 2, 155.

¹³ Falola T and Adam P., *The Women's War of 1929. A History of Anti-Colonial Resistance in Eastern Nigeria*. (Durham: Carolina Academic Press, 2011), P44.

¹⁴ Ojo E.O., *The Awolowo-Akintola Leadership Tussle: A Reintegration* available at www.theartsjournal.org/index.php/site/article/view/896

¹⁵ Adesola AS and Peters, AO, "A Historical Analysis of Violence and Internal Population Displacement in Nigeria's Fourth Republic, 1999-2011", (2015), International Journal of Peace and Conflict Studies (IJPCS), Vol. 2, No 3, P19

¹⁶ Ibid

Other conflicts include that of the sharia crisis in Northern Nigeria. Following the introduction of Islamic criminal law in several states of northern Nigeria, non-Muslims protested the move and felt it was an attempt to Islamize Nigeria. That resulted in serious civil unrest especially in Kaduna states where thousands of people were killed and properties worth millions of Naira were destroyed.¹⁷ A common form of clash especially in northern Nigeria is that of the farmers and herds men. Armed herds men mostly believed to be from other neighboring countries cross into Nigeria with thousands of animals and trespass into farms lands thereby resulting in conflicts and loss of lives.¹⁸ In recent times, the ugly situation has started surfacing even in the southern part of the country. This can be seen in the recent attacks on some communities of south eastern Nigeria by alleged armed herds' men. Killing several innocent civilians and destroying properties.¹⁹

The insurgency in the oil rich Niger Delta region has equally done a lot of havoc to the economy of Nigeria. Militants in the region believed that the oil exploration in the region has negatively affected their environment and has resulted in wide spread poverty in the region. This is in addition to the marginalization they suffer at the Federal level.²⁰ Youth in the region took arms against the Federal government and destroyed several oil installations in the region. this resulted in more oil spill and destruction of the environment.²¹ Late President Umaru Musa Yar'adua succeeded bringing peace to region by placing the youth in the region on several financial interventions and declaration of amnesty on the armed groups.²² Unfortunately some youths in the region have started destroying oil facilities in the region after President Muhammadu Buhari has taken over the mantle of leadership.²³

Communal clashes is equally a common crises in Nigeria. This is due to the multi tribal and cultural nature of Nigeria. These and other conflicts has made Nigeria known for unrests, the most serious of all the conflicts is the Nigerian civil war followed by the boko haram insurgency.

¹⁷ Ehusani, G., A Brief Survey of Sharia Crises in Nigeria, www.georgeehusani.org visited 21/12/2016

¹⁸ Adisa RA, Farmer Herdsmen Conflicts A Factor Analysis of Socio-Economic Conflict Variables among Arable Crop Farmers in North Central Nigeria, (2010), *J Hum Ecol*, 30(1), 7.

¹⁹ Vanguard Newspaper of Oct 6, 2016

²⁰ Afinotan1, LA and Ojakorotu, V., The Niger Delta Crises: Issues, Challenges and Prospects, (2009) *African Journal of Political Science and International Relations* Vol. 3 (5), pp. 195

²¹ <https://www.theguardian.com> > World > Nigeria visited 11/12/2016

²² Ibid

²³ Owolabi, T., available at <http://www.reuters.com/article/us-nigeria-security-idUSKCN0YO00B>. visited 31/12/2016

3. Insurgency in North Eastern Nigeria

The group *Jama'atu Ahlus-Sunnah Lidda'Awati Wal Jihad*²⁴ is popularly known as Boko Haram.²⁵ It is a terrorist group that claims that Western Education is prohibited and pursuing Western education amounts to disbelief. The extremist group has created havoc through out Nigeria especially the states in North Eastern part of the country.²⁶ The group started its attack on security agents and government facilities. It gradually extended its target to places of worship, markets etc. it has succeeded in causing the death of thousands of people. Its violent attacks on government offices, the United Nations and organisations threatened to destabilize the country. A range of conflicting narratives has grown up around Boko Haram, and the group's origins, motivations, and future plans remain a matter of debate.²⁷ Muhammad Yusuf was responsible for the spread of the ideologies of the group amongst the youth in Maiduguri. It started with criticism of Western education, democracy and government. It gradually moved from ordinary criticism to categorizing association with these institutions with disbelief.²⁸ Several Muslim scholars such as the late Shiekh Jaafar preached against the activities of the group and called on people to disassociate themselves from the activities of the group. Despite the efforts of the Muslim scholars, the group continued to gain popularity especially among the locals. The violent aspect of the sect surfaced when members of the group and operation Flush officers had a confrontation leading to the shooting and injury of some members of the sect.²⁹ The members of the group subsequently attacked and killed several Police officers. The government of Umaru Musa Yar'adua decisively dealt with the group, destroyed its base and killed its leader (Muhammad Yusuf).³⁰ The residents of Maiduguri enjoyed relative peace but the group suddenly resurfaced and started killing police, soldiers, Muslim clerics, politicians etc.³¹ The activities of the group gradually worsened and they took to killing every individual

²⁴ Jama'atu Ahlus-Sunnah Lidda'Awati Wal Jihad means people that keep to the traditions of the prophet in calling people to Islam and jihad.

²⁵ Boko Haram in Hausa language means western education is prohibited. This name was given to them due to their belief that western education is prohibited and any person that partakes in it is a disbeliever.

²⁶ The states in the North-East are Borno, Adamawa, Bauchi, Taraba, Gombe and Yobe states.

²⁷ Walker, A., What is Boko Haram, available at www.usip.org visited 24/12/2016

²⁸ Ibid

²⁹ Sequel to which Muhammad Yusuf made his popular open letter to the Nigerian government, threatening to revenge if the government did not take steps to punish the officers involved and complete withdrawal of Operation Flush from the streets of Maiduguri. In fact the then Borno state Governor used the Operation Flush to enforce the use of helmet by motorbike riders and the group insisted on using turban instead of the helmet.

³⁰ Al-Jazeera, July 31, 2009 www.aljazeera.com/news/africa/2009/07/2009730174233896352.html visited 31/12/2016

³¹ Adesote S and Peters, A, A Historical Analysis Of Violence And Internal Population Displacement In Nigeria's Fourth Republic, 1999-2011, (2015), International Journal of Peace and Conflict Studies (IJPCS), 2 (3):13-22

that does not believe in their way. They attacked markets, churches, mosques, schools etc. The residents of Maiduguri suffered in a circle of violence for several years. They suffered attack by the extremist group at one end and arrest, torture and execution by the military at the other end.³² When the situation became unbearable, the youth in Maiduguri organized themselves and started to hunt and arrest boko haram members amongst them.³³ That positive sacrifice saw the return of relative people into Maiduguri and dislodgement of Boko haram from the city. The sect regrouped in Sambisa forest, attacked and conquered several local governments in Borno, Yobe and Adamawa states.³⁴ Boko Haram continued to have upper hand against the Nigerian government, it was until after the coming into office of President Muhammadu Buhari that the group was flushed out of these territories.³⁵ As a result of these occupation, millions of people were displaced and that directly affected the education of the Internally Displaced children. Despite the defeat of the group by the Nigerian government, the IDPs have still not returned home. This is to allow reconstruction, demining etc of the territories that was once under the occupation of the dreaded terrorist group.³⁶

4. Children's Right to Education

Education is internationally recognized as a right of every child. The United Nations, International Regional instruments and indeed local legislations in Nigeria have all recognized education of a right of every child. The major International Instrument on child protection is the United Nations Convention on the Rights of the Child (UNCRC). The CRC is an organic and holistic piece of legislation that must be viewed as a whole.³⁷ In ensuring the right to education of a child is respected, other provisions of the CRC that must come to play when the right to education is mentioned. For example, the principle of non-discrimination must be respected.³⁸ According to the UNCRC

“States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they

³² Amnesty International has in a reported accused the Military in Maiduguri for unlawful detention, torture and summary execution. House, HP, Star on their Shoulders available at <https://www.amnesty.org/download/Documents/AFR4416572015ENGLISH.PDF> visited 31/11/2016

³³ This group of brave young me are popularly called Civilian Joint Task Force

³⁴ Available at www.globalterrorwatch.ch/.../boko-haram-fighters-regroup-in-sam visited 31/12/2016

³⁵ In fact, the Sambisa forest was taken by the Nigerian Military on 22 December, 2016. These symbolically signifies the defeat of the terrorists and they cease to occupy any territory in Nigeria.

³⁶ www.vanguardngr.com › News visited 31/12/2016

³⁷ Verheyde, M., “Article 28: The Right to Education”, in Alen J., et al editors, *A Commentary on the United Nation's Convention on the Right of the Child*, (Leiden: Martinus Nijhoff Publishers, 2006), at 2.

³⁸ Article 2 CRC

shall, in particular...Make primary education compulsory and available free to all...Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need...Make higher education accessible to all on the basis of capacity by every appropriate means...Make educational and vocational information and guidance available and accessible to all children...Take measures to encourage regular attendance at schools and the reduction of dropout rates...States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention...States Parties shall promote and encourage international cooperation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.”³⁹

This Convention serves as a turning point on the issue of child protection across the globe. The Convention made in clear terms that State parties are not only required to ensure that children get enrolled into the school system but also take steps to reduce school dropout amongst children. Discrimination and other challenges that serve as barrier to attainment of quality education in children.⁴⁰

Similarly, discipline must be administered in a manner consistent both with the child’s dignity and with the right to protection from all forms of violence, thus sustaining respect for the child in the educational environment.⁴¹ Further, the aims of education are defined in terms of the potential of each child and the scope of the curriculum, clearly establishing that education should be a preparatory process for promoting and respecting human rights. This approach is elaborated in the General Comment on the aims of education, in which the Committee on the Rights of the Child emphasized the fact that Article 29 of the CRC requires the development of education that is child centered, child friendly and empowering, and that education goes

³⁹ Article 27 CRC

⁴⁰ Craissati, D., et al, *A Human Rights Based Approach to Education for All*, (New York: UNICEF, 2001), at 8.

⁴¹ Ibid

beyond formal schooling to embrace a broad range of life experiences through which positive development and learning occur.⁴² The Committee on the Rights of the Child stated in a General Comment on early childhood that the right to education of a child commences at birth and the Committee further encouraged States Parties to take measures and provide programmes to enhance parental capacities to promote their children's development.⁴³

The CRC states further "States Parties agree that the education of the child shall be directed to: (a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;"⁴⁴

All children must be treated equal in the training they are supposed to receive. Similarly, the best interest principle which requires that in every action concerning the child, his best interest must be of paramount consideration.⁴⁵ That means in impacting education to the child, the need of the child in line with his age, social background and immediate environment must be looked at. Going by this principle, the call for sex education to children in some quarters which is in conflicts with religion might likely not be in the best interest of the child.⁴⁶ The use of phonographic pictures/videos, vulgar language and other seemly immoral channels exposes the child to immoralities hence a source of concern.⁴⁷

Survival and development cannot be achieved without qualitative education. That means the right to education and the right of the child to survival and development are closely related.⁴⁸ The requirement for children to participate in their affairs extends to the right to education.⁴⁹ There is the need for children to be consulted in matters that relate to their educational needs and the method to be used in imparting knowledge on children. The requirement for protection of children from all forms of maltreatment perpetrated by teachers is equally a very important aspect of the right to education.⁵⁰ Health education is part and parcel of the right of the child to education. The CRC states that every child has the right to health

⁴² Ibid

⁴³ United Nations Convention on the Rights of the Child, 1989; Committee on the Rights of the Child, 'General Comment No. 1: The aims of education, Article 29 (1) (2001)', CRC/GC/2001/1, 2001; Committee on the Rights of the Child, 'General Comment No. 7: Implementing child rights in early childhood', CRC/C/GC7, 2005.

⁴⁴ Article 29 CRC

⁴⁵ Article 3 CRC

⁴⁶ Kashyap, N.A., *The 'Fundamentals' of the Fundamental Right to Education in India*, (India: BFC, 2008), at 13.

⁴⁷ Available at <http://www.advocatesforyouth.org/publications/398?task=view> viewed on 18 January, 2014.

⁴⁸ Article 6 CRC

⁴⁹ Article 13-17 CRC

⁵⁰ Article 19(1) CRC

education.⁵¹ Hence there is the need for all these to be looked at comprehensively so that children will be given the expected knowledge for the development of the society.

Improvement in the standard of education is one of the targets of the Millennium Development Goal as expressed in the Millennium Declaration.⁵² It is targeted under this project that by 2015 all girls and boys complete a full course of primary education and that gender disparity is eliminated at all levels of education.⁵³ Similarly, the Jakarta Declaration was adopted in the 'International Conference on the Right to Basic Education as a Fundamental Human Right and the Legal Framework for Its Financing'.⁵⁴ The Jakarta Declaration states amongst other things the recognition of the right to education as an internationally recognized right in its interrelationship with the right to development, and that the legal and constitutional protection of this right is indispensable to its full realization. It equally acknowledges the fact that learning is a lifelong process and there must be a strong commitment to invest in the development of the educational sector. A rights-based approach to education seeks to build opportunities for children to achieve their optimum capacities throughout their childhood and beyond. It requires a life-cycle approach, investing in learning and ensuring effective transitions at each stage of the child's life.⁵⁵

Although the Convention on the Rights of the Child does not impose explicit obligations to provide early childhood education, the Committee on the Rights of the Child interprets the right to education as beginning at birth and as closely linked to the child's right to maximum development. It calls on governments to ensure that young children have access to programmes of health care and education designed to promote their well-being, and stresses that the right to optimum development implies the right to education during early childhood, with systematic and quality family involvement. Quality education during the early years plays a vital part in promoting readiness for school and is also the best guarantee of promoting sustainable economic and social development, and attaining the Millennium Development Goals and the Education for All and a world fit for children's goals.⁵⁶

⁵¹ Article 30 CRC

⁵² Loewe, M., Post 2015: How to Reconcile the Millennium Development Goals (MDGs) and the Sustainable Development Goals (SDGs)? Available at post2015.files.wordpress.com/.../loewe-2012-post-2015-mdgs-and-sdgs viewed on 21 January, 2015.

⁵³ Available at <http://www.un.org/millenniumgoals/education.shtml> viewed on 21 January, 2015.

⁵⁴ Jakarta, Indonesia, 2–4 December 2005

⁵⁵ Craissati, D., et al, n. 39, at 43.

⁵⁶ Burnett, N., and Felsman, C., *Post- 2015 Education MDGS*, (UK: Result for Development Institute, 2012), at 6.

The only law solely dedicated to the protection of the right of the child in Nigeria is the Child's Right Act, it provides with respect to education thus:

“Every child has the right to free, compulsory and universal basic education and it shall be the duty of the government of in Nigeria to provide such education.”⁵⁷

However, the Act has not explained the meaning of the word “free” in Section 15(1). Does it mean waiver of tuition fees, provision of free school uniforms and other necessary things like stationeries, mid-day meals, transportation etc that are required to equip the child for education? In other words, does “free” mean the absence of financial burden on the parents or the responsibility is to be shared both by the parents and the government?

The Act states further that “Every parent or guardian shall ensure that his child or ward attends and complete his

- (a) primary school education; and
- (b) junior secondary education.⁵⁸

The provision of the Child's Right Act on Education is not adequate to guarantee the right to education due to lack of clear explanation on some important issues (for example, the meaning of the term “free”). However even where the law exist the implementation is often fraught with difficulties.⁵⁹ We may, therefore suggest that a special legislation on the child's right to education should be enacted which may be broadly based on ideas incorporated in Indian Legislation called The Right of Children to Free and Compulsory Education (RTE) Act; 2009: The RTE outlines ideas such as school and social mapping to ensure availability of neighbourhood schools, enrolling those children who are out of the funding of such schools by the government, maintaining prescribed pupil-teacher ratio in schools, tracking of school attendance registers etc.⁶⁰

The 1999 Constitution has equally made education part of the Fundamental Objectives and Directive Principles of State Policy. It provides that government shall direct its policy towards ensuring that there is equal and adequate educational opportunity at all levels; and the

⁵⁷ Section 15(1) of the Act

⁵⁸ Section 15(2) of the Act

⁵⁹ Usman G., ‘Al Majiri Education and the Child's Right Act 2003: An Analysis’, unpublished LL.M Dissertation, Faculty of Law University of Maiduguri 2005 p96

⁶⁰ See generally, Saugra, B., ‘Right to Education and Conceptual Dimension: A Critical Analysis’ (2010) (2), Indian Law Review (ILR) Pp 85-97

government shall strive to eradicate illiteracy; and to this end government shall as when practicable provide among others free, compulsory and universal basic education.⁶¹

In a landmark judgement, the ECOWAS Court held in *Serap V Federal Republic of Nigeria And Universal Basic Education Commission*⁶² that the right to education is an enforceable right because corruption is mainly the factor that hinders Nigerians from enjoying the rights provided in Chapter II of the 1999 Constitution. The government must therefore be ready to create the enabling environment for the enjoyment of the right to education to Nigerians.⁶³

5.1 Internally Displaced Persons in Northern Nigeria

The Boko haram crisis has displaced millions of people in the north Eastern part of Nigeria. The United Nations Guiding Principles on IDP's defines IDP's as:

“...persons or group of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human made disasters, and who have not crossed an internationally recognized State border.”⁶⁴

Internal Displacement Monitoring Centre (IDMC)⁶⁵ estimates that there are almost 2,152,000 internally displaced people (IDPs) in Nigeria as of 31 December 2015.⁶⁶ This figure is based on an assessment conducted from November to December 2015 by the International Organization for Migration's (IOM) Displacement Tracking Matrix (DTM) team in 207 Local Government Areas (LGA) covering 13 States of Northern Nigeria: Abuja (13,481 IDPs); Adamawa (136,010); Bauchi (70,078); Benue (85,393); Borno (1,434,149); Gombe (25,332); Kaduna (36,976); Kano (9,331); Nasarawa (37,553); Plateau (77,317); Taraba (50,227); Yobe (131,203); and Zamfara (44,929).⁶⁷

⁶¹ Section 18 of the 1999 Constitution. The Constitution has equally made education an item in the concurrent legislative list, hence both the state and federal governments are competent to make legislation on them. See item 27, 28 and 29 of the Concurrent legislative list.

⁶² Suit number ECW/CCJ/APP/808

⁶³ See <http://www.right-to-education.org> (visited 20/10/2011)

⁶⁴ UNHCR, Guiding Principles on Internal Displacement, 2005

⁶⁵ IDMC is part of the Norwegian Refugee Council (NRC), an independent, non-governmental humanitarian organisation. <http://www.internal-displacement.org/sub-saharan-africa/nigeria/figures-analysis>

⁶⁶ Some figures also show that there are about 3.3 million IDPs in Nigeria which is the third largest in the world, Baffour K, Nigeria has the Highest Level of IDPs in the World, available at <https://www.naij.com/66928.html> visited 3/11/2016

⁶⁷ Available at IDMC, Nigeria IDP Figure Analysis, <http://www.internal-displacement.org/sub-saharan-africa/nigeria/figures-analysis> visited 31/12/2016

The North Eastern States and some states in Nigeria have witnessed unprecedented insurgency and conflicts from 2009 to date, eventually leading up to the declaration of state of emergency in Borno, Yobe and Adamawa States in 2013.⁶⁸ More than 90% of IDPs are in host communities in areas of north-east Nigeria that were not controlled by Boko Haram, and about 8% are in camps set up by the Nigerian National and State Emergency Management Agencies. Conditions in the camps vary and basic education is provided to children in some of them. In general, the IDP camps are not conducive to educational development and there are serious protection issues in some of the camps. In addition, many of the IDPs are traumatised, including some of the children. The IDPs include people who fled from Boko Haram and others who were captured or held in Boko Haram controlled territory for some months or years before escaping or being liberated by the military. There is an international donor and NGO presence in the camps in Borno, Adamawa and Yobe, and in some of the host communities. They are making a difference but their resources are too meagre to help everybody, especially in the host communities.⁶⁹

5.2 Right of the IDP Children to Education

All schools in Boko Haram-controlled areas were destroyed. In fact, in parts of Borno and Yobe States schools that are not under the direct control of Boko Haram were often targeted in hit and run attacks. This led to the closure of several schools in those states from 2013 to 2015. Some are just starting to reopen, but many are still closed. A 2016 UNICEF report indicates that “in Yobe state a total of 57 schools were attacked, made up of 33 primary schools, fifteen secondary schools, four combined primary and secondary schools in the same compound, two vocational training centres and three higher institutions. The fatalities stand at 129 students, with one teacher killed. In Borno state, where most school attacks took place, at least 88 primary schools comprising of 828 classrooms, 28 secondary schools with 8,540 classrooms were burnt between 2012 and 2015. In these attacks two school administrators, nineteen teachers and ten students had lost their lives.” In northern Adamawa State, “Boko Haram attacks led to the destruction of 115 schools in 8 local government areas thereby forcing 285,632 students and 8,150 teachers to stop attending schools.” Since 2013 Boko Haram has been abducting school age youths – boys and girls and young adults. Some are indoctrinated and forced to fight or carry out suicide bombings, and girls are “married” to Boko Haram

⁶⁸ UNICEF, Education Strategy For Internally Displaced (Id) Children In Host Communities

⁶⁹ <http://www.norrag.org/cn/publications/norrag-news/online-version/refugees-displaced-persons-and-education-new-challenges-for-development-and-policy/detail/idps-and-education-in-north-east-nigeria-after-boko-haram.html> visited 1/11/2016

fighters. The most notorious case was the abduction of more than 200 schoolgirls from Chibok village in southern Borno State in April 2014, but this represents the tip of the iceberg.⁷⁰

6.1 The Role of Government

Nigeria operates a federal system of government with the Federal government at the top, followed by the State and finally local government at the bottom.⁷¹ The Constitution of the Federal Republic of Nigeria is the Supreme law of the land and any law that is contrary to the Constitution shall be void to the extent of its inconsistency.⁷² The government of the federation of Nigeria works for the good governance of the people of Nigeria. Since Nigeria operates a democracy, it is expected that the interest of all the citizens of Nigeria should be a matter of primary consideration in all actions.⁷³

Internally Displaced Persons are Nigerians and the government is required to do its best towards their protection. The right to education of the internally displaced is a matter concern to the government. When children are not properly educated, it will serve as a time bomb against the future generation because no nation can progress when a greater percentage of its future leaders are uneducated. Unfortunately, the issue of right to education is a matter in Chapter II of the constitution and as such non-justiciable.⁷⁴ The Court of Appeal has further reiterated the issue of non-justiciability of Chapter II of the Constitution in *Adamu V AG Borno State*⁷⁵. According to the Court, the rights reflected under Chapter II is non-justiciable but where some other issue are brought to fore such as the issue of discrimination in matters reflected under the Chapter, then that can give rise to the right of justiciability.⁷⁶

The federal government through the Ministry of education can advance the cause of the right of the education of the internally displaced children through special intervention and setting up of temporary schools that will satisfy the educational needs of the internally displaced children at the camps and other locations where the internally displaced persons can be found. Similarly, the efforts of the state and local governments can be assisted by the federal

⁷⁰ Higazi, A., Refugees, Displaced Persons and Education: New Challenges for Development and Policy, available at <http://www.norrag.org/cn/publications/norrag-news/online-version/refugees-displaced-persons-and-education-new-challenges-for-development-and-policy/detail/idps-and-education-in-north-east-nigeria-after-boko-haram.html> visited 31/10/2016

⁷¹ Akande, JO, *Introduction to the Constitution of the Federal Republic of Nigeria 1999* 1st edn (Lagos: MIJ Professional Publishers Ltd, 2000) 388

⁷² Section 3 of the 1999 Constitution

⁷³ See Chapter II of the 1999 Constitution

⁷⁴ Ibid

⁷⁵ (1996) 8 NWLR (pt 465) p203

⁷⁶ The Christian Community of Gwoza Local Government in this case sued their Local Government (Gwoza) on account of discrimination between Muslim and Christian pupils.

government through provision of more funds that will assist the state and local government in provision of purchase of educational and training materials at the IDP camps.

Due to the displacement. Thousands of IDPs have occupied state owned schools in Maiduguri, that has affected the education of not just the IDPs but also the education of other children in Borno state. Fortunately, the Borno state government had arranged and provided shelter to the IDPs in other locations and students throughout Maiduguri have returned and resumed normal educational activities. The state educational Board in collaboration with the Local Education Authorities under the local government council have a significant role to play in improving and protecting the right to education of the Internally Displaced Persons. After the return of relative peace, people from some local governments have returned to their local governments in thousands, unfortunately, the educational activities of the local governments have still not resumed. In Gwoza local government, after a visit by a Presidential Team on the Internal Displaced Persons led by Senator Ali Ndume, a complain by the locals that have since returned was that the Local Educational Authority has not returned to handle the issue of education of the children and it was the soldiers that are helping to teach the children in the community.⁷⁷ The General Commanding Officer of the Nigerian Army in Gwoza town also complained to the Senator that the local Government authority has refused to relocate and settle with the people that have already returned.⁷⁸ Undoubtedly, this has direct linkage to the issue of the right to educational of the children that have returned and have resumed normal activities. The return of the Local Government Authorities to the various local governments in order to ensure that the right of the children to education is protected is key towards ensuring that the future generation does not miss this vital aspect of its life.

6.2 The Role of NGOs

The United Nations and indeed other international bodies have equally a very important role to play towards protecting the right of children to education. On the part of the UN, the UN refugee Council is an international body specially intended to protect the right of refugees. Although, there is difference between refugees and Internally Displaced Persons, there vulnerability is almost the same. The refugees are people that have crossed an internally recognized borders while the internally displaced persons remain within the territory of their country. The fact remains that they are both group of vulnerable people that are forced to leave their place of domicile either due to conflict or some other natural disasters.

⁷⁷ NTA Maiduguri Special Programme on IDPs 29th/12/2016 8:00-830pm

⁷⁸ Ibid

As part of its efforts towards protecting the right to education, the United Nations established two important bodies that are vested with the responsibility of ensuring that education is considered a matter of prime importance. UNESCO⁷⁹ and UNICEF⁸⁰ are two bodies that have done a lot across the globe towards ensuring that the right of education of children is well protected. Though they are independent of one another, but they sometimes work jointly under the same environment due to the similarity and nature of their work.

In the North East, UNICEF has taken giant steps towards assisting in the aspect of education of IDP children. The UNIFEC is known to have provided educational and learning materials such as books, bags and several other basic teaching and learning materials. These efforts will bring the desired results if they further collaborate with the state authorities and other local people such as ward and Village Heads housing the Internally Displaced Persons.

7. Conclusion

Nigeria has faced several challenges relating to peace and security. The most pronounced of which is the Nigerian Civil war and the Boko Haram insurgency. The Boko Haram insurgency started in Maiduguri the capital of Borno state but gradually engulfed most states in the North Eastern part of Nigeria. It has resulted in the death of thousands of peoples, destructions of Millions of property and displacement of Millions of people. Boko Haram had occupied several local governments in Borno, Yobe and Adamawa states. Since they are anti-western education, all areas under Boko Haram occupation have no touch with western educations. Similarly, due to the displacement, the children of the displaced people have lost access to education as most of them stay in camps or are accommodated by relatives and other sympathizers. Further, due to the occupation of schools by the IDPs even the locals hat are actually not IDPs are forced to stay at home and without education for years before the IDPs were relocated to other places by the Borno state government to allow for the continuation of normal school activities in the state.

Education is a right that is reflected under Chapter II of the 1999 Constitution (as amended), the constitution states that matter in chapter II are non-justiciable hence making the right to education non-justiciable. Though the court have stated that even though the provisions of the Chapter II of the Constitution is generally unenforceable, it can give rise to enforceable

⁷⁹ United Nations Economic, Social and Cultural Organisation

⁸⁰ United Nations Children Education Fund

rights for example when the issue of discrimination comes into play. The African Court of Justice has in a found decision held that the right to education in Nigeria is justiciable as corruption is the main barrier to its attainment in Nigeria.

The Federal, State and Local Governments in Nigeria have a significant role to play in the protection of the right of IDP children to education. The government has the primary responsibility of ensuring that its future generation did not lose this fundamental pillar in their lives. It is therefore suggested that the government should be ready to spend more resources on the issue of education especially that of the IDP children due to their vulnerability. The government should further help in ensuring that local authorities return to the liberated communities so that educational activities can fully resume. A practical approach towards realizing that is to ensure that only staff that have returned to the liberated communities are paid monthly salaries. The international bodies equally have a very vital role to play towards ensuring that the right of the IDP children to education is well protected. It is a known fact that agencies such as UNICEF have been doing a lot towards helping in the promotion of the right to education, it is suggested that they should work with the local authorities, community leaders and traditions institutions so that they can effectively reach out to the children at the IDP camps and host communities.